IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

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RSA NO. 2435 OF 2007.
DATE OF DECISION: SEPTEMBER 10, 2007.

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Gain Singh and another Vs. Punjab Wakf Board, Ambala Cantt.

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Before: Hon'ble Mr. Justice R.S.Madan.

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Present: Shri Gurnam Singh, Advocate, for the appellants.

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R.S.Madan, J (Oral)

This appeal is directed against the judgment and decree dated June 04, 2007 rendered by the learned Additional District Judge, Nawanshehr, in Regular Civil Appeal No. 31 of 2005, whereby the appeal filed by the appellants was dismissed maintaining the order dated August 04, 2005 passed by the then Additional Civil Judge (Sr. Division), Nawanshahr in Civil Suit No. 336 of 2003.

In brief the facts of the case are that the plaintiff-respondent filed a suit for permanent injunction restraining the defendants from cutting and removing the Sheesham Trees standing in the land owned by the plaintiff-Punjab Wakf Board (hereinafter to be referred to as the “Board”), measuring 15 Kanals 13 Marlas and also from raising any sort of construction thereon, thereby changing the nature of the suit land.

Upon notice, the defendants put in appearance and filed joint written statement. Besides controverting the averments made in the plaint, the defendants raised the preliminary objections that the suit of the plaintiff is not maintainable in the present form. The plaintiff is barred by its own act and conduct to file the present suit and that the suit is bad for mis-joinder and non-joinder of necessary parties.

From the pleadings of the parties, the learned trial court framed the issues and after recording evidence of both the parties and hearing the learned counsel for the parties, returned the findings on all the issues in favour of the plaintiff. As a result, the suit of the plaintiff was decreed with costs vide judgment and decree dated August 04, 2005, which in appeal was affirmed, vide order dated June 04, 2007.

Dis-satisfied with the judgment and decree dated June 04, 2007, the appellant has filed the present appeal before this Court.

I have heard the learned counsel for the parties and have perused the record.

At the time of arguments, the learned counsel for the appellant admitted that no question of law is involved in this appeal. It is also not the case of the appellant that the learned trial court has mis-interpreted the evidence led by the parties before the trial court. It has been urged by the learned counsel for the appellant that as per the report of the Local Commissioner, the plaintiff has raised construction of two rooms with mud and have no doors/windows. It is further proved from the report of the Local Commissioner that the two rooms have been constructed for the purpose of storing crops. The Local Commissioner when visited the site, also observed that the rooms were newly constructed with mud. The appellant was never authorized to raise any kind of construction in the agricultural land to convert the nature of the land. Therefore, he has been rightly held by the trial court not entitled to any injunction or decree for permanent injunction.

In this view of the matter I am fortified from the position highlighted by the Hon'ble Supreme Court in ***Joseph Severance and Others v. Benny Mathew and Others, 2005(2) R.C.R.(Rent) 493 : 2005 (4) RCR(Civil) 559 (SC) : [2005(7) SCC 667]***, ***Sasikumar and Others v. Kunnath Chellappan Nair and Others, 2005(4) RCR(Civil) 715 (SC) :***

[2005(12) SCC 588] and *Gian Dass v. Gram Panchayat, Village Sunner Kalan and Ors., 2006(3) RCR(Civil) 748 (SC) : (2006(6) SCC 271).*

Finding no merit, the appeal is dismissed in limine.

September 10, 2007. **(R.S.Madan)**
Malik **Judge**